

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA**

ALEKSEJ GUBAREV, XBT HOLDING, S.A.
and WEBZILLA, INC.,

Plaintiffs,

v.

BUZZFEED, INC., AND BEN SMITH,

Defendants.

Case No. 17-cv-60426-UU

MOTION TO SET FBI DEADLINE FOR POSITION STATEMENT

The Government hereby requests that the Court set as January 16, 2019, its deadline to file a position statement regarding the Court's proposed unsealing of the affidavit the Federal Bureau of Investigation ("FBI") was ordered to provide Defendant in the above-captioned matter (hereinafter "FBI Affidavit"). *See BuzzFeed v. U.S. Dep't of Justice*, No. 17-mc-2429 (D.D.C.), ECF No. 33.

On January 11, 2019, this Court denied the FBI's motion to stay its deadline to file this position statement in light of the lapse in appropriations for the U.S. Department of Justice. *See* ECF No. 409 (Jan. 11 Order). The Order did not clarify the FBI's deadline for such a position statement, but stated that the statement must be filed in a "timely" fashion. *Id.*

Undersigned counsel for the FBI still has not received BuzzFeed's official notice of the Court's proposed unsealing. Although undersigned counsel's office is located at 1100 L. St. NW in Washington D.C., BuzzFeed mailed such notice by certified mail to undersigned counsel's attention at the Department of Justice building at 950 Pennsylvania Ave. N.W. in Washington,

D.C., where it apparently was signed for on December 31, 2018.¹ To date, undersigned counsel still has not “received” the service copy of that notice. However, undersigned counsel did learn of the notice on January 2, 2019, upon receipt of BuzzFeed’s email attaching a courtesy copy of that notice.

The FBI respectfully requests that its deadline to submit a position statement be based on that date, fourteen days from which would be January 16, 2019. *See* ECF No. 384 (Dec. 18 Order). The FBI requires this time to determine its position on the Court’s proposed unsealing and to coordinate with undersigned counsel about a statement explaining that position. Such coordination has been especially difficult because many of the individuals involved in the decision-making about the FBI Affidavit are or have been furloughed during the lapse in appropriations.

Accordingly, the FBI respectfully requests up to and including January 16, 2019 – fourteen days after counsel for the FBI first became aware of the notice – to file its position statement regarding the Court’s proposed unsealing of the FBI Affidavit, which non-party FBI was ordered to provide BuzzFeed in this matter pursuant to a protective order preventing its further disclosure beyond the parties to this action. *See BuzzFeed v. U.S. Dep’t of Justice*, No. 17-mc-2429 (D.D.C.), ECF No. 33, at 25.

Respectfully submitted this 13th day of January, 2019,

JOSEPH H. HUNT
Assistant Attorney General

JACQUELINE COLEMAN SNEAD
Assistant Branch Director, Federal Programs Branch

/s/ Anjali Motgi
ANJALI MOTGI

¹ If BuzzFeed’s notice had been “received” on December 31, 2018, the FBI’s deadline to submit a position statement regarding the proposed unsealing of the FBI Affidavit would be fourteen days later—on January 14, 2019. *See* Dec. 18 Order at 3.

Texas Bar # 24092864
United States Department of Justice
Civil Division, Federal Programs Branch
1100 L Street, N.W.
Washington, D.C. 20530
(202) 305-0879 (office)
(202) 616-8470 (fax)
anjali.motgi@usdoj.gov

Counsel for the Federal Bureau of Investigation